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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10

11 UNITED STATES OF AMERICA,	)	Civil No. 06CV1706-BEN(NLS)
	)	
12 Plaintiff,	)	
	)	
13 v.	)	JOINT MOTION TO ENTER
	)	AMENDED CONSENT DECREE
14 Undetermined quantities of boxes	)	FOR CONDEMNATION AND
of Signature Edition Gold infusion	)	PERMANENT INJUNCTION
15 pumps, et al.,	)	
	)	
16 Defendants.	)	
_____	)	

17  
18 COME NOW THE PARTIES, Plaintiff United States of America, by and through its counsel,  
19 Allan Gordus, Trial Attorney, United States Department of Justice, and Defendants Cardinal Health 303,  
20 Inc. ("Cardinal 303"), Dwight Winstead (Cardinal 303's President and Chief Operating Officer), David  
21 L. Schlotterbeck (Cardinal 303's Chairman and Chief Executive Officer), and Donald M. Abbey  
22 (Cardinal 303's Senior Vice President of Quality and Regulatory Affairs), by and through their counsel,  
23 Peter S. Spivack, and hereby jointly move the Court to enter the Amended Consent Decree for  
24 Condemnation and Permanent Injunction attached to this motion as Exhibit 1.

25 In support of this motion, the parties state as follows:

26 1. On August 23, 2006, the United States, on behalf of the United States Food and Drug  
27 Administration ("FDA"), filed a verified complaint for forfeiture against certain articles that were in the  
28 possession of Cardinal 303. The complaint alleged that the articles were adulterated under Sections

1 501(c) and 501(h) of the Federal Food, Drug, and Cosmetic Act (the “Act”), 21 U.S.C. §§ 351(c) and  
2 351(h).

3 2. Cardinal 303, Dwight Winstead, David L. Schlotterbeck, and William H. Murphy, then  
4 Cardinal 303’s Senior Vice President of Quality and Regulatory Affairs, without admitting the  
5 allegations in the complaint, agreed to the entry of a Consent Decree for Condemnation and Permanent  
6 Injunction entered by this Court on February 7, 2007 (“2007 Decree”).

7 3. From January 8 to February 1, 2008, while the 2007 Decree was in effect, the FDA  
8 inspected Cardinal 303’s infusion pump operations, and specifically Cardinal 303’s Alaris System,  
9 formerly known as Medley, infusion pumps, and alleged, based upon that inspection, that the Alaris  
10 System infusion pumps are: (a) adulterated within the meaning of the Act, 21 U.S.C. § 351(h); and  
11 (b) misbranded within the meaning of the Act, 21 U.S.C. § 352(t)(2).

12 4. Defendant William H. Murphy is no longer Cardinal 303’s Senior Vice President of  
13 Quality and Regulatory Affairs. This position was filled by and is currently held by Donald M. Abbey.

14 Based upon the foregoing, it is respectfully requested that the Court enter the Amended Consent  
15 Decree For Condemnation and Permanent Injunction.

16  
17 DATED: February 18, 2009

s/Peter S. Spivack  
Counsel for Defendants  
E-Mail: psspivack@hhlaw.com

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19 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures  
20 of the United States District Court for the Southern District of California, I certify that the content of  
21 this document is acceptable to counsel for the Defendants and that I have obtained authorization from  
22 Peter S. Spivack to affix his electronic signature to this document.

23  
24 DATED: February 18, 2009

s/Allan Gordus  
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Counsel for Plaintiff